

M e m o r a n d u m**330.2960**

To: San Francisco - Auditing (LC:REP)

Date: August 6, 1965

From: Tax Counsel (EHS) - Headquarters

Subject: Leases of Tangible Personal Property

In reply to the four questions asked in your memo of July 30, 1965, we advise as follows:

1. Apparently tax has been paid on the full purchase price of the property consisting of the cost of materials and outside fabrication labor. If such is the case, no tax is due on the rental receipts from the leasing of the property.
2. If an item is leased prior to August 1, 1965, no tax applies to the rental charges if the materials entering into the item leased were purchased with tax paid on the purchase price.
3. As indicated by ruling 70, part (b), a lessor placing property into rental service prior to August 1, 1965, the lessor electing to measure his tax liability by the rental charge, is required to continue to report and pay tax on the same basis.
4. In this case, the tax applies to the actual sales price paid for the property, that is, the additional amount paid by the lessee to obtain the property upon the exercise of the option. You will note that ruling 70, part (c)(2)(D), second paragraph, precludes a taxpayer from changing from a tax-paid basis to a rental receipts basis as to property acquired on a tax-paid basis, and leased in substantially the same form as acquired. A lessor, however, who has not already acquired property on a tax-paid basis still has the election of purchasing the property under a resale certificate and paying tax on rental receipts.

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